IN THE UNITED STATES SUPREME COURT

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SUPREME COURT, U.S.

HOYT WEAVER,
PETITIONER

-VS-

ROBERT GRAHAM, GOVERNOR,
RESPONDENT

CASE NO.

79-5780

PETITION FOR WRIT OF CERTIORARI TO THE
SUPREME COURT OF FLORIDA, IN CASE #56,707

* * * * * * * * * * * * * * * * *

OPINIONS

The Supreme Court of Florida denied relief, per curium, the 1st day of November 1979, citing Harris v Wainwright, #56,716 (Nov. 1st, 1979). (Copies of both decisions hereto attached.)

STATEMENT OF GROUNDS

The State Supreme Court of Florida decided in a manner conflicting with recent decisions of The State Supreme Court of Louisiana and in open conflict with prior decisions of The Supreme Court of The United States on a Constitutional Issue (Article I, Section 9 and Article I, Section 10, Constitution of The United States); - and is a matter of great public interest since it affects approximately 20,000 Florida prisoners.

The decision was handed down the 1st day of November, 1979 and this Court has jurisdiction under Title 28, Section 1651.

THE QUESTIONS PRESENTED

1. Where a statute is enacted after the commission of an offense which materially alters the situation of the accused to his material disadvantage is the application of such statute to the accused ex post facto?
2. Is it proper for a State Supreme Court to merely paraphrase a Response filed by Respondent Governor as to a constitutional claim; or must such Supreme Court consider the merits and find its own conclusion?

CONSTITUTIONAL PROVISIONS

This case involves Article I, Section 9 and Article I, Section 10, Constitution of The United States and the Due Process Clause of the Fourteenth Amendment.

It presents Chapter 20, Florida Statutes 944.27, 944.271 and 944.29 all

repealed; as opposed to Florida Statute 944.275.

STATEMENT OF THE CASE

In 1976 Petitioner was convicted of Second Degree Murder for a crime occurring in 1976 and sentenced to Fifteen Years in prison on May 13, 1976.

Petitioner was processed through Lake Butler Reception Center at Lake Butler, Florida and his expiration date was set in 1984. (EXHIBIT "A")

When Petitioner saw the Parole Examiner in March, 1979 Petitioner learned his expiration date was being changed due to the enactment of a new statute (Florida Statute 944.275).

In March, 1979 Petitioner filed a Petition for Writ of Habeas Corpus to The Supreme Court of Florida citing an ex post facto application of the new law, Florida Statute 944.275.

The States response to Order to Show Cause set Petitioner's new expiration date at February 2, 1987 (which alteration included a loss of 165 days forfeited due to disciplinary incidents) as of January 1, 1979. (EXHIBIT "B")

In his Reply to the States Response Petitioner incorporated the arguments of a companion case, William P. Besser v Robert Graham, Case #57,021 (For the Court's convenience a complete copy of case 57,021 absent exhibits is appended hereto - Besser's filing, Order to Show Cause, Response; and Reply to Response).

On November 1, 1979 the Florida Supreme Court denied, citing Harris v Wainwright, #56,716 (November 1, 1979) as authority. (Besser was also denied on the same basis.)

ARGUMENT

Petitioner was convicted in 1976 for acts occurring in 1976.

Petitioner entered the Florida Prison System about May 13, 1976 and was given 2340 days "gain time" and informed that he would have to serve 3135 days minus any "additional earned gain time" subject to possible forfeitures of gain time credits for disciplinary infractions. His release date was set in 1984.

In 1979 his release date was changed to 1987.

The 1978 session of the Florida Legislature repealed Statute 944.27, 944.271 and 944.29; - and enacted, in their places, Florida Statute 944.275. (Copies in Appendix)

A fair reading shows that the only difference in the Statute change is in the Statutory Gain Time allowed under 944.27 from 5 days per month for the first

2 years; 10 days per month for the second 2 years; and, 15 days per month for each succeeding year; - to 3 days per month for the first 2 years; 6 days per month for the second 2 years; and, 9 days per month for each succeeding year.

The new gain time law, enacted to take effect over a year after commission of the offense charged, changed the expiration date from 1984 to 1987.

The only question before the Court; can a State Legislature enact a law after commission of an offense which adds over two years to the penalty contemplated by law at the time of the commission?

Such is obviously a direct violation of the requirement of Article I, Section 9 and Article I, Section 10, Constitution of The United States, that no state may enact or enforce an ex post facto law.

The Supreme Court of Florida not only condoned the unconstitutional application of that ex post facto law (Florida Statute 944.275) but was in conflict with The Supreme Court of Louisiana on the precise issue in two recent decisions of that Court.

In Curtis v State, 363 So 2d 1375 at 1383 that Court held:

> We must therefore conclude that our recent Wilson decision is incorrect and must be overruled. That the change in the law affecting the opportunity to earn a diminished sentence did not deprive a defendant of any vested right to good time does not alter the fact that the statute applies a new punitive measure to a crime already consummated to the detriment or material disadvantage of the wrongdoer (see Lindsey) and that it has the effect of making the standard of punishment "more onerous" through its effect on release eligibility (see Bullock). State v Curtis, 363 So 2d 1375 at 1383 (Appended)

On the 21st day of October, 1978 The Supreme Court of Louisiana, in its decision covering the exact situation here, ruled opposite to The Florida Supreme Court's holding in the instant case, stating:

> (1) statutory amendment requiring good time for inmates convicted after September 9, 1977 to be computed on basis of 15 days per month rather than the 25 days as before would violate ex post facto constitutional prohibitions if applied to persons who committed offenses on or prior to the date. . . State ex rel Bickman v Dees, 367 So 2d 283 at 284 (La. Dec. 21, 1978) (Appendix)

The decision in this case by The Supreme Court of Florida is in direct conflict with this Court's holding in:

> . . . .But the State having created the right to good time and itself recognizing that its deprivation is a sanction authorized for major misconduct, the prisoner's interest has real substance and is sufficiently embraced within the Fourteenth Amendment "liberty" to entitle him to those minimum procedures appropriate under the circumstances and required by the Due Process Clause to insure that the state-created right is not arbitrarily abrogated. Wolff v McDonnell, 94 S.Ct. 2963 at 2975 (Appendix).

The holding of this, and other Courts, have been so consistent that Florida's Supreme Court appears to be attempting to overturn the Federal Constitution in order to protect its Department of Corrections,

Realizing that Florida's Department of Corrections did recompute all release dates, regardless of date of offense or conviction and thereby applied the new gain time statute to some 20,000 inmates in an ex post facto manner at some cost to the Department; Respondent may not, through his Supreme Court, offer such monetary expenditures as a reason for the decision rendered in Weaver v Graham, #56,707 Florida Supreme Court for, with many similar cases filed, the Court ruled:

> Per Curium:
> . . . .denied. See Harris v Wainwright, #56,716.

The text of the Harris decision, compared with Petitioner's Reply to Response and the filings in Besser v Graham, #57,021, show that The Supreme Court of Florida did not decide the issue on the merits but relied entirely upon the Response filed by the Florida Attorney General (Appended with Opinions included).

For these reasons, Petitioner moves the writ issue.

Respectfully submitted,

Hoyt Weaver, #053366, pro se
Post Office Box 1100 - 1514
Avon Park, Florida 33825

PROOF OF SERVICE

I, HOYT WEAVER, do hereby certify that a true and correct copy of the foregoing PETITION FOR WRIT OF CERTIORARI TO THE SUPREME COURT OF FLORIDA, IN CASE #56,707 has been furnished Attorney General Jim Smith, Counsel for Respondent, addressing same to his Tallahassee address, by United States Mail this the 6 day of DECEMBER, 1979.

HOYT WEAVER, pro se

APPENDIX---CONTENTS

I. Decision, Weaver v Graham, Fla Supreme Court, November 1, 1979
REFERENCE: Petition, page one. (Fla Supreme Court # 56,707)

II Decision, Harris v Wainwright, Fla Supreme Court, November 1, 1979 REFERENCE: Petition page one. (Fla Supreme Court # 56,716)

III. Litigation, Complete filing Weaver v Graham, Fla Supreme Court REFERENCE(As Marked): Exhibits A and B, page two of Petition.
(Fla Supreme Court # 56,707)

Exhibit A: Appended to Original Petition by Weaver.

Exhibit B: Appended to State's Responce, Affidavit L.L. Wainwright.

IV. Litigation, Complete filing Besser v Graham, Fla Supreme Court. (Fla Supreme Court # 57, 021)
REFERENCE: Petition page two

V. Cited Materials

United States Constitution

Article I, Section 9

Article I, Section 10

Florida Statutes

Chapter 20, Florida Statute 944.27

Chapter 20, Florida Statute 944.271

Chapter 20, Florida Statute 944.29

Chapter 20, Florida Statute 944.275

VI. Cited Cases

State v Curtis, 363 So 2d 1375 (la 1978)

State ex rel Hickman v Dees, 367 So 2d 283 (La 1978)

Wolff v Mc Donnell, 418 U.S. 539, 94 S. Ct. 2963, 41 L Ed 935 (1974)

In Clerk's Office

IN THE SUPREME COURT OF FLORIDA

HOYT WEAVER,

Petitioner,

-v- CASE NO. 56,707

ROBERT GRAHAM,
Governor,

Respondent.

RESPONSE

COMES now respondent, by and through his undersigned attorneys, and makes this response to the order to show cause heretofore issued in the captioned proceeding on June 25, 1979 and says:

I.

Petitioner is held in custody pursuant to a commitment issued May 13, 1976, copy of which is attached as Exhibit 1.

II.

Petitioner complains that he is being deprived of "good time" by an ex post facto law. In essence, it is claimed that since Section 944.275, Florida Statutes, effective July 1, 1978, permits the accummulation of a lesser amount of "good time" then did its predecessor, Section 944.27, then the application of the new statute to petitioner in the computation of his gain time makes the statute an ex post facto law because it was not in effect at the time petitioner was convicted and sentenced. Respondent disagrees. Appellate courts throughout the country have repeatedly recognized that the allowing of gain-time is an act of grace and that a prisoner has no right to receive gain time in the absence of a legislative provision therefor. In other words, gain time

(allowance) is an act of grace (rather than a vested right and) may be withdrawn, modified, or denied. Please see A.G.O. 078-96, copy of which is attached as Exhibit 2. For the holding of other appellate courts on this issue, please see: Graham v. Thompson, 246 F.2d 805 (10th Cir. 1957); People ex rel. Kleinger v. Wilson, 5 N.Y.S.2d 934 (S.Ct.App.Div. 3 1938); Gilstrap v. Clemmer, 284 F.2d 804 (4th Cir. 1960); Kastel v. Fish, 36 F.Supp. 700 (D.C.Md. 1931); Estrabrook v. King, 119 F.2d 607 (8th Cir. 1941); Comerford v. Commissioner of Correction, 141 N.E.2d 893 (Mass. 1957); Comerford v. Massachusetts, 233 F.2d 294 (1st Cir. 1956), cert. denied 352 U.S. 899; Lembersky v. Parole Board of Dept. of Correction, 124 N.E.2d 521 (Mass. 1955); People ex rel. Colletti v. Pate, 201 N.E.2d 390 (Ill. 1964); Hiatt v. Compagna, 178 F.2d 42 (5th Cir. 1949), aff'd 340 U.S. 880; Shattuck v. Grider, 493 P.2d 829 (Okla.Crim.App. 1972), citing Dear v. Mayo, 14 So.2d 267 (Fla. 1943), with approval.

III.

Although Section 944.275 was effective July 1, 1978, it was not implemented until January 1, 1979. This means that petitioner's gain time was computed under the provisions of Section 944.27 up until January 1, 1979 and thereafter computed pursuant to the provisions of Section 944.275. So that petitioner may have an up-to-date computation of his time and a tentative expiration date, respondent attaches the affidavit of Louie L. Wainwright showing the computation of petitioner's time and a projected release date of February 2, 1987, the same being attached as Exhibit 3.

IV.

Each and every allegation challenging the legality of petitioner's incarceration not heretofore specifically answered or denied is hereby severally denied and the contrary allegation lodged.

CONCLUSION

The petition for writ of habeas corpus should be denied.

JIM SMITH
Attorney General

By: Wallace E. Allbritton
WALLACE E. ALLBRITTON
Assistant Attorney General

COUNSEL FOR RESPONDENT
The Capitol
Tallahassee, Florida 32301

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I have furnished a copy of the foregoing Response to Mr. Hoyt Weaver, #053366, P.O. Box 1100, Avon Park, Florida, by mail, this 6th day of July 1979.

Wallace E. Allbritton
WALLACE E. ALLBRITTON
Assistant Attorney General

of Counsel

Supreme Court of Florida

No. 56,716

HENNARD HARRIS, Petitioner,

vs.

LOUIE L. WAINWRIGHT, Respondent.

[November 1, 1979]

ADKINS, Acting Chief Justice.

In original habeas corpus proceedings, petitioner asserts that section 944.275 Florida Statutes (1978 Supplement) is unconstitutional as it is applied to him, in that he is harmfully required to remain in prison for an indeterminate number of months or years past the original expiration of the sentence under the law as it existed at the time of the offense. This statute, known as the "gain time statute" requires the Department of Corrections to grant deduction for gain time on a monthly basis, as earned, from the sentence of every prisoner who has committed no infraction of the rules of the department or of the laws of the state and who has performed in a satisfactory and acceptable manner the work, duties, and tasks assigned.

Petitioner says that under the former law, section 944.27 Florida Statutes (1977) he was credited with all of his statutory gain time in advance at the time he was received into the custody of the Department of Corrections.

The new law (1978) is different from the former law (1977) in that there is an award of three days per month instead of five for the first two years; the award of six days per month instead of ten for the second two years; and the award of nine days per month instead of fifteen for anything over four years service of sentence.

Instead of awarding or crediting a prisoner with the statutory gain time at the old rate according to the number of years sentenced and time served, the Department of Corrections would credit such

gain time monthly (rather than in advance) at the new lesser rate and then only according to the number of years served. The "up front" awarding of gain time under the prior law was merely an administrative method by which an expiration date of sentence was tentatively calculated. Under either the old law or the new, gain time, whether it be what is normally considered "statutory" or "extra", only comes into play if a given inmate conducts himself in such a way as to deserve the gain time. Therefore, any notion of gain time can only be considered, at best, as conditionally vested.

Petitioner says that the statutory gain time credited in advance by the Department of Corrections under section 944.27, Florida Statutes (1977) was the custom by departmental rule and thus has become a vested right, at least insofar as petitioner is concerned. He says that the department entered into a binding contractual arrangement when petitioner entered prison that he would be able to receive and keep the statutory gain time in the absence of disciplinary problems. Petitioner contends that he is being deprived of "good time" by an ex post facto law. In essence, it is claimed that since section 944.275, Florida Statutes (1978) permits the accumulation of a lesser amount of good time than did its predecessor, section 944.27, Florida Statutes (1977), then the application of the new statute to petitioner and the computation of his gain time makes the statute an ex post facto law as it was not in effect at the time petitioner was convicted and sentenced.

Appellate courts throughout the country have repeatedly recognized that the allowing of gain time is an act of grace and that a prisoner has no right to receive gain time in the absence of a legislative provision therefor. In other words, gain time allowance is an act of grace rather than a vested right and may be withdrawn, modified, or denied. See Gilstrap v. Clemmer, 284 F.2d 804 (4th Cir. 1960); Hiatt v. Compagna, 178 F.2d 42 (5th Cir. 1949) aff'd. 340 U.S. 880 (1950); Estrabrook v. King, 119 F.2d 607 (8th Cir. 1941); Kastel v. Fish, 36 F. Supp. 700 (D.C. Md. 1931); Shattuck v. Grider, 493 P.2d 829 (Okla.Crim.App. 1972) citing with approval Dear v. Mayo, 153 Fla. 114, 14 So.2d 267 (Fla. 1943); People ex rel. Coletti v. Pate, 201 N.E.2d 390 (Ill. 1964); Comerford v. Commissioner of Correction, 141 N.E.2d 893 (Mass. 1957); Lembersky v. Parole

Board of Department of Correction, 124 N.E.2d 521 (Mass. 1954).

Although section 944.275, Florida Statutes, was effective July 1, 1978, it was not implemented until January 1, 1979. This means that petitioner's gain time was computed under the provision of section 944.27, Florida Statutes (1977), until January 1, 1979, and thereafter computed pursuant to the provision of section 944.275, Florida Statutes (1978).

Mayo v. Lukers, 53 So.2d 916 (Fla. 1951) recognizes that the right to gain time is not a vested one and that it is obviously dependent on the course of the conduct of the inmate. This Court has emphasized the legislature's power to make whatever changes it deems prudent in the gain time procedure. In Dear v. Mayo, 153 Fla. 164, 14 So.2d 267 (Fla. 1943), this Court said that parole and gain time is granted by the sovereign as a matter of grace rather than of right and that the state may offer such grace under and subject to such conditions as it may consider most conducive to accomplish the desired purpose. In Kimmons v. Wainwright, 338 So.2d 239 (1st DCA 1976), the court said that gain time is given to prisoners through the beneficence of the legislature, and the legislature has full authority to establish the terms and conditions thereof.

This is not a situation in which a new law has been passed eliminating the allowance of gain time in certain situations. Dowd v. Sims, 229 Ind.54, 95 N.E.2d 628 (Ind. 1950). This is not a situation in which the entire scheme of criminal penalties has been revised. Goldsworthy v. Hannifin, 86 Nev. 252, 468 P.2d 350 (Nev. 1970). It is not a situation in which the length of incarceration for juvenile offenders has been extended. In re Dewing, 564 P.2d 375 (Cal. 1977); In re Valenzuela, 79 Cal.Retr. 760, 275 Cal.App.2d 483 (3d Dist. 1969). Likewise, it is not a situation involving a new and different interpretation of existing law. Love v. Fitzharris, 460 F.2d 382 (9th Cir. 1972).

The petition for writ of habeas corpus is denied.

It is so ordered.

BOYD, OVERTON, SUNDBERG and ALDERMAN, JJ., Concurring

NOT FINAL UNTIL TIME EXPIRES TO FILE REHEARING MOTION AND, IF FILED, DETERMINED.

Original Jurisdiction - Habeas Corpus

Hennard Harris, in proper person, Raiford, Florida,

for Petitioner

Jim Smith, Attorney General; and A. S. Johnston, Assistant Attorney General, Tallahassee, Florida,

for Respondent

IN THE SUPREME COURT OF FLORIDA

HOYT WEAVER
Petitioner

-VS-

CASE NO. 56,707

ROBERT GRAHAM, GOVERNOR
Respondent

PETITIONER'S REPLY TO RESPONSE OF RESPONDENT

Comes now the Petitioner, Hoyt Weaver, in proper person, and replies to the response of Respondent.

Petitioner would show:

1. Petitioner's filing of March 16, 1979, contended that his expiration date had been recomputed pursuant to Florida Statute 944.275 with an effective date of January 1, 1979. This claim is conceded by Respondent and is not, therefore, at issue.

2. Petitioner further contended that such application of the above cited Statute as to Petitioner constituted the enforcement of an ex post facto law by Respondent in that the criminal conduct giving rise to Petitioner's imprisonment occurred prior to the effective date of Florida Statute 944.275, and that the application of Florida Statute 944.275 as to Petitioner, is clearly detrimental to Petitioner.

3. Respondent's response is apparently based solely on a claim that statutory gain time is an act of grace by the Legislature rather than a vested right although, by reference to Attorney General Opinion 078-96 (Respondent's Exhibit 2), Respondent also contends "....nothing in HB 811 imposes an additional penalty for a crime already committed or makes more severe punishment already imposed, and nothing in the bill purports to deprive any inmate of any vested, enforceable right." (Respondent's #2 at Page 2).

4. Both claims by Respondent are without merit. At the time Petitioner entered the Florida Prison System Petitioner did acquire a vested right to the expiration date established for his sentence pursuant to Florida Statute 944.27, the gain time law in effect at the time of the criminal conduct for which he stood convicted. This Statute, when applied to Petitioner's sentence, did specify, with particularity, a date certain when Petitioner's actual imprisonment would terminate

and conditional release would begin. His gain time pursuant to 944.27 was awarded to him in advance and could be taken or forfeited only for certain breeches of prison rules or the law and only in the presence of certain procedural safeguards. This date has now been altered pursuant to Florida Statute 944.275 to Petitioner's disadvantage. Relief is mandated by the following U.S. Supreme Court and Florida Supreme Court Cases:

1. Calder v Bull, 3 US (3 Dall) 386, 390, 1 L Ed 648 (1798)
2. Cummins v Missouri, 4 Wall 277, 18 L Ed 356, 71 US 277 (1866)
3. Kring v Missouri, 107 US 221, 2 S Ct. 443, 27 L Ed 506 (1882)
4. In re Medley, 134 US 160, 10 S Ct. 384, 33 L Ed 835 (1890)
5. Duncan v Missouri, 152 US 377, 14 S Ct. 570, 33 L Ed 485 (1894)
6. Thompson v Utah, 170 US 343, 18 S Ct. 620, 42 L Ed 1061 (1898)
7. Malloy v S Carolina, 237 US 180, 35 S Ct. 507, 59 L Ed 905 (1915)
8. Lindsey v Washington, 301 US 397, 57 S Ct. 797, 81 L Ed 1182 (1937)
9. Higginbottom v St., 88 Fla 26, 101 So 233 (Fla 1924)
10. Wilensky v Fields, 267 So 2d 1 (Fla 1972)

5. Documents unavailable to Petitioner at the time of the original filing demonstrates the effect of this application. Petitioner's Exhibit A, reflecting a T.E.D. of December 31, 1984, and Respondent's Exhibit 3 (Petitioner's Exhibit B), reflecting a T.E.D., because of the recomputation pursuant to Florida Statute 944.275, of February 2, 1987.

6. A fuller and more complete analysis of Respondent's legal argument demonstrating the absence of merit and reflecting unequivocally that Petitioner is entitled to the relief sought is appended hereto (Petitioner's Exhibit C) and is "Petitioner's Reply", absent Petitioner's exhibits, filed in William P. Besser v Robert Graham, Case No. 57,021, which argument, with all other law and argument submitted by Petitioner Besser, Petitioner would respectfully incorporate by reference. (See sections I-V, pp 2-7, Exhibit C, excluding facts applicable solely to Petitioner Besser.)

WHEREFORE, on the basis of the foregoing and attached Petitioner has demonstrated:

1. That when Petitioner entered the Florida Prison System, the Department of Corrections, applying Florida Statute 944.27, established a date certain for Petitioner's release from actual imprisonment on conditional release;

2. That due to the retroactive application of Florida Statute 944.275, as to Petitioner by Respondent, this date certain has been changed to Petitioner's disadvantage; and,

3. Such application by Respondent of Florida Statute 944.275 as to Petitioner is in direct violation of the Florida Constitution: Article I, Section 10; Article X, Section 9; and The United States Constitution Article I, Sections 9 and 10.

The Writ should issue.

Respectfully submitted,

Hoyt Weaver

Hoyt Weaver #053366 (pro se)
P.O. Box 1100, Slot 1514
Avon Park, Florida 33825

PROOF OF SERVICE

I hereby certify that true and exact copies of this Reply to Response, Exhibits A, B, and C, and this Proof of Service are furnished Counsel for Respondent at his Tallahassee address.

Hoyt Weaver

Hoyt Weaver (pro se)

EXHIBIT A NOTE: EXHIBIT B from State's #3
C Bess ork Bessen's Reply Brief

FLORIDA PAROLE AND PROBATION COMMISSION
OBJECTIVE PAROLE GUIDELINES WORKSHEET

Inmate Number: 053366 Inmate Name: Hoyt Weaver

TE: 12-31-84 Institution: Avon Park C.I. Date of Interview: 3-7-79

ITEM A

Number of All Prior Convictions
Three or more prior convictions=2
One or two prior convictions=1
No prior convictions (adult or juvenile)=0 [2]

ITEM B

Number of Prior Incarcerations
Two or more prior incarcerations=2
One prior incarceration=1
No prior incarcerations=0 [2]

ITEM C

Total Time Served in Years
Two or more years served=2
Up to two years served=1
No time previously served=0 [2]

ITEM D

Age of First Commitment (Adult or Juvenile)
17 years or younger=2
18 - 25 years=1
26 years or older=0 [1]

ITEM E

Number of Prior Parole Revocations or MCR Revocations
One or more prior revocations=1
No prior revocations=0 [1]

ITEM F

Number of Prior Escapes
One or more prior escapes=1
No prior escapes=0 [0]

ITEM G

Burglary as Present Offense of Conviction
Present offense involves burglary=1
Otherwise=0 [0]

TOTAL SCORE 8

OFFENSE CHARACTERISTIC: 2nd degree Murder — Armed Robbery 5-15-76
Life 1-31-76

Matrix Time Range ~~78-120~~ 120 +	County Jail Credit ~~107~~ (days)
Recommended Time	Time Since Sentence ~~33.2~~ (no. & days)
	Total Time Served ~~37.4~~ (no. & days)

AGGRAVATING/MITIGATING CIRCUMSTANCES (Circle as appropriate; Insert Code No., Category and Explanation)

36
1
37
24
4
33

INMATE OR EXAMINER CONTEST OF SCORING: (Explain in detail)

RECOMMENDED PRESUMPTIVE PAROLE RELEASE DATE: 1-31-86

ACKNOWLEGEMENT OF INTERVIEW:

Inmate Signature 1-31-76 Examiner SDI

Dept. of Corrections Representative 1-31-86 Examiner

Form A: 1 Copy to Inmate
1 Copy to institution file

4

FORM DC-9 STATE OF FLORIDA REVISED 1-68

UNIFORM COMMITMENT TO CUSTODY OF DIVISION OF CORRECTIONS

CIRCUIT COURT CRIMINAL JUSTICE DIVISION
(Court)

HILLSBOROUGH County. SPRING Term, 19 76

Conviction for MURDER IN THE SECOND DEGREE
(Offense)

Date of conviction MAY 13th, 1976

Date of sentence imposed MAY 13th, 1976

Term of sentence FIFTEEN (15) YEARS with credit time from January 31, 1976

STATE OF FLORIDA,

Plaintiff,

vs.

Hoyt Weaver
Defendant.

O 53366

JUN 7 1976

"Case No. #76-739 B"

"WHITE MALE"

IN THE NAME AND BY THE AUTHORITY OF THE STATE OF FLORIDA, TO THE SHERIFF OF SAID COUNTY AND THE DIVISION OF CORRECTIONS OF SAID STATE, GREETING:

The above named defendant having been duly charged with the above named offense in the above styled Court, and he having been duly convicted and adjudged guilty of and sentenced for said offense by said Court, as appears from the attached certified copies of

~~(Indictment)~~ X (Information)

judgment and sentence, which are hereby made parts hereof;

Now, therefore, this is to command you, the said Sheriff, to take and keep and, within a reasonable time after receiving this commitment, safely deliver the said defendant into the custody of the Division of Corrections of the State of Florida; and this is to command you, the said Division of Corrections, by and through your director, superintendents, wardens, and other officials, to keep and safely imprison the said defendant for the term of said sentence in the institution in the state correctional system to which you, the said Division of Corrections, may cause the said defendant to be conveyed or thereafter transferred. And these presents shall be your authority for the same. Herein fail not.

WITNESS the Honorable Charles H. Scruggs, III
James F. Taylor, Jr.
Judge of said Court, as also

Clerk, and the Seal thereof, this the 13 day of May, 19 76

James F. Taylor, Jr.
Clerk of said Court

BY Jacqueline Burns D.C.

(To be used in committing defendants under indeterminate sentences as well as under sentences of imprisonment for definite periods.)

Exhibit 1

Supreme Court of Florida

No. 56,707

HOYT WEAVER, Petitioner,

vs.

ROBERT GRAHAM, Governor, Respondent.

[November 1, 1979]

PER CURIAM.

The petition for writ of habeas corpus is denied. See Harris v. Wainwright, Case No. 56,716 (Fla. Nov. 1, 1979).

ADKINS, Acting Chief Justice, BOYD, OVERTON, SUNDBERG and ALDERMAN, JJ., Concur

NOT FINAL UNTIL TIME EXPIRES TO FILE REHEARING MOTION AND, IF FILED, DETERMINED.

Original Jurisdiction - Habeas Corpus

Hoyt Weaver, in proper person, Avon Park, Florida,

for Petitioner

Jim Smith, Attorney General; and Wallace E. Allbritton, Assistant Attorney General, Tallahassee, Florida,

for Respondent

Supreme Court of Florida
Tallahassee 32304

SID J. WHITE
CLERK
BERNICE L. SMILGIN
CHIEF DEPUTY CLERK

TELEPHONE:
904-488-0125

June 25, 1979

Honorable Jim Smith
Attorney General
The Capitol
Tallahassee, Florida 32304

Re: HOYT WEAVER v. ROBERT GRAHAM, Governor
CASE NO. 56,707

Dear General Smith:

Please find enclosed herewith original and copy of Order to Show Cause issued in the above cause. Please endorse acceptance of service on the original and return same to this office.

Thank you for your cooperation in this matter.

Most cordially,

Sid J. White
Clerk Supreme Court

SJW:dec
Enclosures
cc: Mr. Hoyt Weaver